

1-1 By: Carona S.B. No. 512
1-2 (In the Senate - Filed January 22, 2009; February 17, 2009,
1-3 read first time and referred to Committee on Transportation and
1-4 Homeland Security; April 20, 2009, reported favorably by the
1-5 following vote: Yeas 7, Nays 0, 1 present not voting;
1-6 April 20, 2009, sent to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to authorizing the Department of Public Safety of the
1-10 State of Texas to establish a driver record monitoring pilot
1-11 program and enter into contracts for the periodic reporting of
1-12 certain information in the department's driver's license files;
1-13 providing penalties.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-15 SECTION 1. Subchapter C, Chapter 521, Transportation Code,
1-16 is amended by adding Section 521.060 to read as follows:

1-17 Sec. 521.060. DRIVER RECORD MONITORING PILOT PROGRAM.
1-18 (a) The department by rule may establish a driver record
1-19 monitoring pilot program. The term of the pilot program may not
1-20 exceed one year.

1-21 (b) Under the pilot program, the department may enter into a
1-22 contract with a person to provide driver record monitoring
1-23 services, as described by Subsection (c), and certain information
1-24 from the department's driver's license records to the person, if the
1-25 person:

1-26 (1) is an employer, an insurer, an insurance support
1-27 organization, an employer support organization, or an entity that
1-28 self-insures its motor vehicles; and

1-29 (2) is eligible to receive the information under
1-30 Chapter 730.

1-31 (c) A contract entered into by the department must require:
1-32 (1) the department, during the term of the contract,
1-33 to:

1-34 (A) monitor the driver record of each holder of a
1-35 driver's license issued by the department that is requested by the
1-36 person with whom the department has contracted;

1-37 (B) identify any change in the status of a
1-38 driver's license or any conviction for a traffic offense reported
1-39 to the department during the monitoring period; and

1-40 (C) periodically, as specified in the contract,
1-41 provide reports of those individuals identified as having a change
1-42 in status or convictions to the person with whom the department has
1-43 contracted; and

1-44 (2) the person with whom the department has
1-45 contracted:

1-46 (A) to purchase under Section 521.046 a copy of
1-47 the driver record of each individual identified in a report
1-48 provided under Subdivision (1)(C);

1-49 (B) to warrant that:
1-50 (i) the person will not directly or
1-51 indirectly disclose information received from the department under
1-52 the contract to a third party without the express written consent of
1-53 the department, except as required by law or legal process; and

1-54 (ii) if a disclosure is required by law or
1-55 legal process, the person will immediately notify the department so
1-56 that the department may seek to oppose, limit, or restrict the
1-57 required disclosure; and

1-58 (C) if the person is an insurance support
1-59 organization, to warrant that the person will not seek to obtain
1-60 information about a holder of a driver's license under the contract
1-61 unless the license holder is insured by a client of the
1-62 organization, and that the person will provide the department with
1-63 the name of each client to whom the insurance support organization
1-64 provides information received from the department under the
1-65 contract.

1-66 (d) The attorney general may file a suit against a person

2-1 with whom the department has contracted under this section for:

2-2 (1) injunctive relief to prevent or restrain the
 2-3 person from violating a term of the contract or from directly or
 2-4 indirectly disclosing information received from the department
 2-5 under the contract in a manner that violates the terms of the
 2-6 contract; or

2-7 (2) a civil penalty in an amount not to exceed \$2,000
 2-8 for each disclosure in violation of those terms.

2-9 (e) If the attorney general brings an action against a
 2-10 person under Subsection (d) and an injunction is granted against
 2-11 the person or the person is found liable for a civil penalty, the
 2-12 attorney general may recover reasonable expenses, court costs,
 2-13 investigative costs, and attorney's fees. Each day a violation
 2-14 continues or occurs is a separate violation for purposes of
 2-15 imposing a penalty under Subsection (d).

2-16 (f) A violation of the terms of a contract entered into with
 2-17 the department by the person with whom the department has
 2-18 contracted is a false, misleading, or deceptive act or practice
 2-19 under Subchapter E, Chapter 17, Business & Commerce Code.

2-20 (g) A civil action brought under this section shall be filed
 2-21 in a district court:

2-22 (1) in Travis County; or

2-23 (2) in any county in which the violation occurred.

2-24 (h) A person with whom the department has contracted under
 2-25 this section commits an offense if the person directly or
 2-26 indirectly discloses information received from the department
 2-27 under the contract in a manner that violates the terms of the
 2-28 contract. An offense under this subsection is a Class B
 2-29 misdemeanor. If conduct constituting an offense under this
 2-30 subsection also constitutes an offense under another law, the actor
 2-31 may be prosecuted under this subsection, the other law, or both.

2-32 (i) The department shall impose a fee on each person with
 2-33 whom the department contracts under this section for the services
 2-34 provided by the department under the contract. The fee must be
 2-35 reasonable and be not less than the amount necessary to allow the
 2-36 department to recover all reasonable costs to the department
 2-37 associated with entering into the contract and providing services
 2-38 to the person under the contract, including direct, indirect, and
 2-39 administrative costs and costs related to the development and
 2-40 deployment of the pilot program.

2-41 (j) The department may establish a reasonable deadline by
 2-42 which a person must apply to enter into a contract with the
 2-43 department under this section and may not enter into a contract with
 2-44 a person who fails to apply before that deadline.

2-45 (k) To the fullest extent practicable, the services of the
 2-46 department under a contract entered into under this section shall
 2-47 be provided by, through, or in conjunction with the interactive
 2-48 system established under Section 521.055.

2-49 (l) At the conclusion of the term of the pilot program, and
 2-50 on the recommendation of the department, the commission may
 2-51 authorize the department to implement the pilot program as a
 2-52 permanent program.

2-53 (m) Before the department recommends that the pilot program
 2-54 be implemented as a permanent program, the department shall submit
 2-55 to the lieutenant governor, the speaker of the house of
 2-56 representatives, and each member of the legislature a report that
 2-57 contains an analysis of the scope, effectiveness, and cost benefits
 2-58 of the pilot program. The report must include:

2-59 (1) a list of each insurance support organization with
 2-60 which the department has contracted under this section; and

2-61 (2) a list of each client to whom the insurance support
 2-62 organization has provided information received from the department
 2-63 under this section.

2-64 SECTION 2. This Act takes effect immediately if it receives
 2-65 a vote of two-thirds of all the members elected to each house, as
 2-66 provided by Section 39, Article III, Texas Constitution. If this
 2-67 Act does not receive the vote necessary for immediate effect, this
 2-68 Act takes effect September 1, 2009.

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